

09/553,841

E0806

REMARKS

Claims 1-23 are currently pending in the subject application and are presently under consideration. Favorable reconsideration of the subject patent application is respectfully requested in view of the comments herein.

**I. Rejection of Claims 1, 2, 4, 6, and 13 Under 35 U.S.C. §102(b)**

Claims 1, 2, 4, 6, and 13 stand rejected under 35 U.S.C. §102(b) as being anticipated by Batchelder, *et al.* (U.S. 4,647,172). It is respectfully requested that this rejection be withdrawn for at least the following reasons. Batchelder, *et al.* does not teach or suggest each and every element as set forth in the claimed invention.

A single prior art reference anticipates a patent claim only if it expressly or inherently describes each and every limitation set forth in the patent claim. *Trintec Industries, Inc., v. Top-U.S.A. Corp.*, 295 F.3d 1292, 63 U.S.P.Q.2d 1597 (Fed. Cir. 2002). "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Independent claim 1 recites a *develop chamber* with an *image collector, located at least partially therein*, that collects *energy reflected* from inside the develop chamber. Batchelder, *et al.* does not teach or suggest such claimed aspects. In the subject Advisory Action (dated November 12, 2004), it is asserted that Batchelder, *et al.* teaches a chamber with an image collector located at least partially therein, as recited in the subject claim. In particular, the Examiner states that the photodetector of Batchelder, *et al.* is "contained" in an apparatus (claim 1), which he considers to be a chamber. However, Batchelder, *et al.* does not contemplate the location of the photodetector with respect to a develop chamber. At most, Batchelder, *et al.* discloses techniques for observing or monitoring the development of wafer resists *through a window* (not by image collectors

09/553,841

E0806

residing at least partially within a develop chamber) of a batch development tank. (See col. 1, ll. 9-16).

The Examiner further asserts that Batchelder, *et al.* teaches a photodetector that collects *reflected* light as recited in the subject claim. However, Batchelder, *et al.* explicitly teaches the photodetector senses *scattered* light. (See col. 1, l. 37; claims 1, 2 and 3). As known by one of ordinary skill in the art at the time of the invention, scattered light is not synonymous with reflected energy. Scattered light refers to energy thrown in random directions, whereas reflected energy, as recited in the subject claims, is directed (not randomly thrown) such that it is received by an image collector that is positioned at least partially within the develop chamber.

In view of the above, it is respectfully requested that the rejection of independent claim 1 (and dependent claims 2, 4, 6, and 13) be withdrawn.

## II. Rejection of Claims 1-3, 5-7, 10-12, and 15-23 Under 35 U.S.C. §103(a)

Claims 1-3, 5-7, 10-12, and 15-23 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Sanada (U.S. 5,843,527) in view of Ogata (U.S. 6,313,903). It is respectfully requested that this rejection be withdrawn for at least the following reasons. There is no suggestion or motivation in either reference to modify Sanada in view of Ogata or to combine the references to teach applicants' invention as recited in the subject claims.

To reject claims in an application under §103, an examiner must establish a *prima facie* case of obviousness. A *prima facie* case of obviousness is established by a showing of three basic criteria. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

Independent claims 1, 15 and 19 recite a *develop chamber* with an *image collector* located at least partially therein, wherein the image collector collects energy

09/553,841E0806

reflected from inside the develop chamber and transmits a signal indicative of interior of the chamber. In the Final Office Action, the Examiner conceded that Sanada does not teach or suggest a develop chamber. In the subject Advisory Action, the Examiner asserts that Ogata teaches a unit that is both a coater and a developer and that it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the references to teach the subject claims. However, Ogata is silent regarding monitoring a develop process or collecting reflected energy within a develop chamber. It is respectfully submitted that simply because the coater and developer of Ogata are one unit does not mean it would be obvious to combine the teachings of Sanada and Ogata to result in a develop chamber with an image collector that collects energy reflected therein and transmits a signal indicative of interior of the chamber as recite in the subject claims. The mere fact that references can be modified does not render the modification obvious unless the cited references also suggest the desirability of the modification. (*In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990)). Since Sanada relates to visually monitoring a coating process and Ogata does not contemplate monitoring a develop process, applicants' representative submits that there is no teaching, suggestion, motivation or desirability (it would not have been obvious) to combine these references to teach the subject claims.

Accordingly, the rejection of independent claims 1, 15 and 19 (and claims 3, 5-7, 10-12, 16-18, and 20-23, which depend therefrom) should be withdrawn

09/553.841

E0806

CONCLUSION

The present application is believed to be in condition for allowance in view of the above comments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063.

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number below.

Respectfully submitted,

AMIN & TUROCY, LLP



Anthony M. Del Zoppo, III  
Reg. No. 51,606

AMIN & TUROCY, LLP  
24<sup>TH</sup> Floor, National City Center  
1900 E. 9<sup>TH</sup> Street  
Cleveland, Ohio 44114  
Telephone (216) 696-8730  
Facsimile (216) 696-8731